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ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER LAI, MICHAEL C	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/688,430

Applicant(s)

AALTONEN ET AL.

Examiner

Michael C. Lai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-70 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-70 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 17 oct 2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

This office action is responsive to amendment filed on 7/24/2007.

Response to Amendment

The examiner has acknowledged the amended claims 1-39, 42-49, 52-70. Claims in Group 2 (claims 5, 17, 24, 35, 41, 52, 58 and 69), withdrawn from consideration in the previous office action, are considered for examination in this action. The U.S.C. 112, second paragraph rejection has been withdrawn.

Response to Arguments

Applicant's arguments on prior art rejection filed on 7/24/2007 have been fully considered but they are not persuasive.

Regarding applicant's first argument (page 22, second paragraph), the examiner finds that Tatsumi does suggest the terminal accessing the content (with which the content usage statistic(s) are related) from memory of the terminal triggering the terminal to obtain its location and store content usage statistic(s) including the location. Tatsumi discloses that a broadcast receiver comprises: a memory 212, a storage 213 (see FIG. 6); a reception section operable to receive the program data and the program additional information of the program, according to a viewer's selection; a generation section operable to automatically generate and store the link data, and viewing information which is a combination of program reception information partially or entirely extracted from the program additional information specifying the broadcast program, and viewers information about the viewer; and a transmission section operable to provide a service according to an access using the link data, and transmit the viewing

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information to a Web server which generates service use information analyzed and processed to meet a broadcast program provider's needs, and sends out the resulting shop information to the broadcast program provider (see page 4, para. 0051).

Regarding applicant's second argument (page 23, Item 1), the examiner again finds that Tatsumi does suggest triggering obtaining the location of a terminal or apparatus by accessing content from memory (Claim 20), or memory of the terminal or apparatus (Claims 37 and 54), and storing content usage statistic(s) including the location. The explanation is described above.

Regarding applicant's third argument (page 24, first paragraph), as described above the examiner again finds that Tatsumi does suggest a terminal storing content usage statistic(s) related to the terminal accessing one or more pieces of content from memory.

Regarding applicant's fourth argument (page 24, second paragraph), the examiner finds that together Tatsumi and Donian do suggest a destination receiving content usage statistics before the related broadcast content is broadcast. Tatsumi discloses extracting and sending information related to a CM program. Donian suggests pre-broadcast content delivery to generate sales and/or viewership (paragraph 0035). Together they suggest a destination receiving content usage statistics before the related broadcast content is broadcast.

Thus, in view of such, the rejections are sustained as follows:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 6-10, 20-22, 25-28, 37-39, 42-45, 54-56 and 59-62 are rejected under 35 U.S.C. 102(b) as being anticipated by Tatsumi et al. (US 2002/0133393 A1), hereinafter referred to as Tatsumi.

3. Regarding claim 1, Tatsumi discloses a system comprising:

a terminal configured to be triggered to obtain a location of the terminal by accessing at least one piece of content from a memory of the terminal, wherein the terminal is also configured to store, into a content usage log, at least one content usage statistic relating to the terminal accessing the at least one piece of content, and wherein at least one content usage statistic comprises the location of the terminal (a broadcast receiver which is provided plurally and operable to receive the program data and the program additional information of the program according to a viewer's selection, and automatically generate and transmit viewing information which is a combination of program reception information partially or entirely extracted from the program additional information specifying the broadcast program, and viewers information about the viewer, paragraph 0012 and Fig. 6 or 7. For location of the broadcast receiver, paragraph 0113: If the broadcast receiver 2 is of the stay-at-home type (FIG. 6), data previously stored in the storage 213 based on addresses, zip codes, or the like, is used

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as the area information 82c. If the broadcast receiver 2 is of the mobile type (FIG. 7) on the other hand, data provided by the GPS receiver 218 is used as the area information 82c. a broadcast receiver comprises: a memory 212, a storage 213 (see FIG. 6); a reception section operable to receive the program data and the program additional information of the program, according to a viewer's selection; a generation section operable to automatically generate and store the link data, and viewing information which is a combination of program reception information partially or entirely extracted from the program additional information specifying the broadcast program, and viewers information about the viewer; and a transmission section operable to provide a service according to an access using the link data, and transmit the viewing information to a Web server which generates service use information analyzed and processed to meet a broadcast program provider's needs, and sends out the resulting shop information to the broadcast program provider (see page 4, para. 0051)); and

a destination configured to receive the content usage log including the at least one content usage statistic (a viewing information server operable to receive the viewing information transmitted from each of the broadcast receivers, paragraph 0012 and Fig. 10).

4. Regarding claim 2, Tatsumi further discloses wherein the terminal is configured to receive at least one piece of content in accordance with a broadband data broadcast technique (a broadcast receiver is operable to receive the program data, paragraph 0012), and wherein the at least one piece of content comprises at least one piece of

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content for at least one channel comprising at least one of a television, radio or data channel (two types of the broadcast receiver, television and mobile, paragraph 0109).

5. Regarding claim 3, Tatsumi further discloses wherein the terminal is configured to send the content usage log to the destination when a return channel between the terminal and the destination is at least one of available or established (the broadcast receiver is operable to transmit the viewing information to a viewing information server operable to generate marketing information analyzed and processed to meet a broadcast program provider's needs, paragraph 0039).

6. Regarding claim 6, Tatsumi further discloses wherein the terminal is configured to store at least one content usage statistic further comprising at least one statistic related to at least one of the terminal and the at least one piece of content accessed from the memory (The program additional information 45 in the data broadcast stream 42 is processed by going through the system control section 204 composed by a micro processor and others, the memory 212, and the storage 213 in accordance with the procedure of Fig. 9. paragraph 0112 and Fig. 9).

7. Regarding claim 7, since the content is already stored in the storage 213, the terminal is inherently capable of accessing the content from the memory 212 in an offline manner.

8. Regarding claim 8, since a mobile is capable of moving around, Tatsumi inherently discloses the terminal is configured to be repeatedly triggered to obtain a location of the terminal and store at least one content usage statistic for at least one

period of time, and wherein the terminal is further configured to send the content usage log to the destination after each period of time.

9. Regarding claim 9, Tatsumi further discloses wherein the destination (a viewing information server) is configured to receive the content usage log including the at least one content usage statistic such that a network entity is configured to send, to the terminal, at least one piece of content based upon the at least one content usage statistic (a viewing information server operable to receive the viewing information transmitted from each of the broadcast receivers, paragraph 0012 and Fig. 10. a continuous connection can be established between the broadcast receivers and the viewing information server, resulting in effective information transmission. Paragraph 0017).

10. Regarding claim 10, Tatsumi further discloses data about viewing time and day is stored in the memory as viewing time/day (paragraph 0113).

11. Regarding claim 20, Tatsumi discloses an apparatus comprising:

a controller configured to access at least one piece of content from memory, wherein the controller is configured to be triggered to obtain a location of the apparatus by the controller accessing the at least one piece of content from the memory (a system control section 204, paragraph 0110, and Fig. 6 and 7), and

wherein the controller is also configured to store, into a content usage log, at least one content usage statistic relating to the controller accessing the at least one piece of content, wherein at least one content usage statistic comprises the location of the apparatus (the storage 213 and the area information, paragraph 0113).

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12. Regarding claim 21, Tatsumi further discloses wherein the apparatus is configured to receive at least one piece of content in accordance with a broadband data broadcast technique (a broadcast receiver is operable to receive the program data, paragraph 0012, a broadcast receiver includes a memory 212, a storage 213, paragraph 0110, and Fig. 6 or 7), and wherein the at least one piece of content comprises at least one piece of content for at least one channel comprising at least one of a television, radio or data channel (two types of the broadcast receiver, television and mobile, paragraph 0109).

13. Regarding claim 22, Tatsumi further discloses wherein the controller is configured to send the content usage log to the destination when a return channel between the apparatus and the destination is at least one of available or established (the broadcast receiver is operable to transmit the viewing information to a viewing information server operable to generate marketing information analyzed and processed to meet a broadcast program provider's needs, paragraph 0039. a broadcast receiver includes a system control section 204, paragraph 0110, and Fig. 6 or 7).

14. Regarding claim 25, Tatsumi further discloses wherein the controller is configured to store at least one content usage statistic further comprising at least one statistic related to at least one of the apparatus or the at least one piece of content accessed from the memory of the apparatus (The program additional information 45 in the data broadcast stream 42 is processed by going through the system control section 204 composed by a micro processor and others, the memory 212, and the storage 213 in accordance with the procedure of Fig. 9. paragraph 0112 and Fig. 9).

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15. Regarding claim 26, since the content is already stored in the storage 213, the controller is inherently capable of accessing the content from the memory 212 in an offline manner.
16. Regarding claim 27, since a mobile is capable of moving around, Tatsumi inherently discloses the controller is configured to repeatedly access at least one piece of content, and the controller is configured to repeatedly obtain a location of the apparatus, and repeatedly store at least one content usage statistic for at least one period of time, and wherein the controller is further configured to send the content usage log to a destination after each period of time.
17. Regarding claim 28, Tatsumi further discloses data about viewing time and day is stored in the controller as viewing time/day (paragraph 0113).
18. Claims 37-39, 42-45 are of the same scope as claims 1-3, 6-8, 10. These are rejected for the same reasons as for claims 1-3, 6-8, 10.
19. Claims 54-56, 59-62 are of the same scope as claims 1-3, 6-8, 10. These are rejected for the same reasons as for claims 1-3, 6-8, 10.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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20. Claims 4-5, 11-17, 18-19, 23-24, 29-35, 36, 40-41, 46-53, 57-58, 63-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tatsumi in view of Donian et al. (US 2004/0003398 A1), hereinafter referred to as Donian.

21. Regarding claim 4, Tatsumi teaches the system of claim 1 but doesn't disclose that the terminal is configured to access at least one piece of pre-broadcast content related to broadcast content, and wherein the terminal is configured to send the content usage log to the destination before the broadcast content is broadcast. However, Donian discloses pre-broadcast content delivery as part of media sampling (paragraph 0035). Therefore, it would have been obvious to one of ordinary skill in the art to incorporate the teaching of Donian into Tatsumi's system for the terminal to be configured to access at least one piece of content comprising at least one piece of pre-broadcast content related to broadcast content, and wherein the terminal is configured to send the content usage log to the destination before the broadcast content is broadcast. The motivation would be using media sampling/promotion to generate sales and/or viewership.

22. Regarding claim 5, together Tatsumi and Donian teach the system of claim 4, Donian further discloses television promos for upcoming shows (para. 0035, lines 10-11) as part of pre-broadcast content delivery.

23. Regarding claim 11, Tatsumi discloses a system comprising:

a terminal configured to access at least one piece of content from a memory, wherein the at least one piece of content comprises at least one piece of pre-broadcast content related to broadcast content, wherein the terminal is also configured to store,

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into a content usage log, at least one content usage statistic relating to the terminal accessing the at least one piece of pre-broadcast content from the memory (a broadcast receiver which is provided plurally and operable to receive the program data and the program additional information of the program according to a viewer's selection, and automatically generate and transmit viewing information which is a combination of program reception information partially or entirely extracted from the program additional information specifying the broadcast program, and viewers information about the viewer, paragraph 0012 and Fig. 6 or 7. For location of the broadcast receiver, paragraph 0113: If the broadcast receiver 2 is of the stay-at-home type (FIG. 6), data previously stored in the storage 213 based on addresses, zip codes, or the like, is used as the area information 82c. If the broadcast receiver 2 is of the mobile type (FIG. 7) on the other hand, data provided by the GPS receiver 218 is used as the area information 82c.); and

a destination configured to receive the content usage log including the at least one content usage (a viewing information server operable to receive the viewing information transmitted from each of the broadcast receivers, paragraph 0012 and Fig. 10).

Tatsumi doesn't disclose that the terminal is configured to access at least one piece of pre-broadcast content related to broadcast content, and wherein the terminal is configured to send the content usage log to the destination before the broadcast content is broadcast. However, Donian discloses pre-broadcast content delivery as part of media sampling (paragraph 0035). Therefore, it would have been obvious to one of

ordinary skill in the art to incorporate the teaching of Donian into Tatsumi's system for a terminal to be configured to access/store/transmit at least one piece of content, and a destination to be configured to receive the content usage log, before the broadcast content is broadcast.

The motivation for combining Tatsumi and Donian's invention would be using media sampling/promotion to generate sales and/or viewership.

24. Regarding claim 12, Tatsumi further discloses wherein the terminal is configured to receive at least one piece of content in accordance with a broadband data broadcast technique (a broadcast receiver is operable to receive the program data, paragraph 0012), and wherein the at least one piece of content comprises at least one piece of content for at least one channel comprising at least one of a television, radio or data channel (two types of the broadcast receiver, television and mobile, paragraph 0109).

25. Regarding claim 13, Tatsumi further discloses wherein the terminal is configured to send the content usage log to the destination when a return channel between the terminal and the destination is at least one of available or established (the broadcast receiver is operable to transmit the viewing information to a viewing information server operable to generate marketing information analyzed and processed to meet a broadcast program provider's needs, paragraph 0039).

26. Regarding claim 14, Tatsumi further discloses wherein the terminal is configured to store at least one content usage statistic further comprising at least one statistic related to at least one of the terminal and the at least one piece of content accessed from the memory (The program additional information 45 in the data broadcast stream

42 is processed by going through the system control section 204 composed by a micro processor and others, the memory 212, and the storage 213 in accordance with the procedure of Fig. 9. paragraph 0112 and Fig. 9).

27. Regarding claim 15, since the content is already stored in the storage 213, the terminal is inherently configured to access the content from the memory 212 in an offline manner.

28. Regarding claim 16, since a mobile is capable of moving around, Tatsumi inherently discloses the terminal is configured to repeatedly access at least one piece of content and storing at least one content usage statistic for a period of time before the broadcast content is broadcast, and wherein the terminal is configured to send the content usage log to the destination after the period of time and before the broadcast content is broadcast.

29. Regarding claim 17, together Tatsumi and Donian teach the system of claim 11, Donian further discloses television promos for upcoming shows (para. 0035, lines 10-11) as part of pre-broadcast content delivery.

30. Regarding claim 18, Tatsumi further discloses wherein the destination (a viewing information server) is configured to receive the content usage log including the at least one content usage statistic such that a network entity is configured to send, to the terminal, at least one piece of content based upon the at least one content usage statistic (a viewing information server operable to receive the viewing information transmitted from each of the broadcast receivers, paragraph 0012 and Fig. 10. a continuous connection can be established between the broadcast receivers and the

viewing information server, resulting in effective information transmission. Paragraph 0017).

31. Regarding claim 19, Tatsumi further discloses data about viewing time and day is stored in the memory as viewing time/day (paragraph 0113).

32. Regarding claim 23, Tatsumi doesn't disclose that the apparatus is configured to receive and store at least one piece of pre-broadcast content related to broadcast content, and wherein the controller is configured to send the content usage log to a destination before the broadcast content is broadcast. However, Donian discloses pre-broadcast content delivery as part of media sampling (paragraph 0035). Therefore, it would have been obvious to one of ordinary skill in the art to incorporate the teaching of Donian into Tatsumi's system for the terminal to be configured to access at least one piece of content comprising at least one piece of pre-broadcast content related to broadcast content, and wherein the terminal is configured to send the content usage log to the destination before the broadcast content is broadcast. The motivation would be using media sampling/promotion to generate sales and/or viewership.

33. Regarding claim 24, together Tatsumi and Donian teach the apparatus of claim 23, Donian further discloses television promos for upcoming shows (para. 0035, lines 10-11) as part of pre-broadcast content delivery.

34. Regarding claim 29, Tatsumi doesn't disclose that the controller is configured to access at least one piece of pre-broadcast content related to broadcast content, and wherein the terminal is configured to send the content usage log to the destination before the broadcast content is broadcast. However, Donian discloses pre-broadcast

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content delivery as part of media sampling (paragraph 0035). Therefore, it would have been obvious to one of ordinary skill in the art to incorporate the teaching of Donian into Tatsumi's system to disclose an apparatus comprising:

a controller configured to access at least one piece of content from a memory, the at least one piece of content comprising at least one piece of pre-broadcast content related to broadcast content, wherein the controller is also configured to store, into a content usage log, at least one content usage statistic relating to accessing the at least one piece of pre-broadcast content from the memory, and wherein the controller is configured to send the content usage log to a destination before the broadcast content is broadcast (a system control section 204, Tatsumi paragraph 0110, and Fig. 6 and 7. For pre-broadcast, Donian paragraph 0035).

The motivation for combining Tatsumi and Donian's invention would be using media sampling/promotion to generate sales and/or viewership.

35. Regarding claim 30, Tatsumi further discloses wherein the apparatus is configured to receive at least one piece of content in accordance with a broadband data broadcast technique (a broadcast receiver is operable to receive the program data, paragraph 0012. a broadcast receiver includes a memory 212, a storage 213, paragraph 0110, and Fig. 6 or 7), and wherein the at least one piece of content comprises at least one piece of content for at least one channel comprising at least one of a television, radio or data channel (two types of the broadcast receiver, television and mobile, paragraph 0109).

36. Regarding claim 31, Tatsumi further discloses wherein the apparatus is configured to send the content usage log to the destination when a return channel between the apparatus and the destination is at least one of available or established (the broadcast receiver is operable to transmit the viewing information to a viewing information server operable to generate marketing information analyzed and processed to meet a broadcast program provider's needs, paragraph 0039).

37. Regarding claim 32, Tatsumi further discloses wherein the controller is configured to store at least one content usage statistic further comprising at least one statistic related to at least one of the apparatus or the at least one piece of content accessed from the memory of the apparatus (The program additional information 45 in the data broadcast stream 42 is processed by going through the system control section 204 composed by a micro processor and others, the memory 212, and the storage 213 in accordance with the procedure of Fig. 9. paragraph 0112 and Fig. 9).

38. Regarding claim 33, since the content is already stored in the storage 213, the controller is inherently configured to access the content from the memory 212 in an offline manner.

39. Regarding claim 34, since a mobile is capable of moving around, Tatsumi inherently discloses the controller is configured to repeatedly access at least one piece of content and repeatedly store at least one content usage statistic for a period of time before the broadcast content is broadcast, and wherein the controller is configured to send the content usage log to a destination after the period of time and before the broadcast content is broadcast.

40. Regarding claim 35, together Tatsumi and Donian teach the apparatus of claim 29, Donian further discloses television promos for upcoming shows (para. 0035, lines 10-11) as part of pre-broadcast content delivery.

41. Regarding claim 36, Tatsumi further discloses data about viewing time and day is stored in the controller as viewing time/day (paragraph 0113).

42. Claims 40-41, 46-53 are of the same scope as claims 4-5, 11-17, 19. These are rejected for the same reasons as for claims 4-5, 11-17, 19.

43. Claims 57-58, 63-70 are of the same scope as claims 4-5, 11-17, 19. These are rejected for the same reasons as for claims 4-5, 11-17, 19.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Lai whose telephone number is (571) 270-3236. The examiner can normally be reached on M-F 8:30 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael C. Lai
27SEP2007


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